THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.20457 OF 1999

Date: 18th September 2006

Between:
The Primary Agricultural Cooperative Credit Society, Sitarampuram, Narsapur Mandal, West Godavari District, rep. by its Secretary S.K.S.Venkateswarlu, aged 28 years.

…. Petitioner.

And

1. Kondaveety Subba Rao, S/o Venkata Ratnam, R/o Sitarampuram, Narsapur Mandal, West Godavari District and 2 others.

…. Respondents.

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ORDER:

This writ petition is filed seeking a writ of Certiorari declaring the order dated 24.8.1999 made in O.A.No.253 of 1998 on the file of the A.P. Cooperative Tribunal, Vijayawada, as illegal, arbitrary and unconstitutional.

2. It appears that the first respondent obtained a loan of Rs.1,34,700/- in the year 1989 for establishment of a poultry farm. As per the terms and conditions of the loan the said amount has to be repaid in four equal instalments with interest at 12.5 per cent. The first respondent

mortgaged an extent of Ac.6-00 of land towards security for the above said loan. Since the first respondent committed default in payment of instalments and in spite of repeated demands, he failed to pay the amounts, the petitioner filed an application before the third respondent under Section 71 of A.P. Cooperative Societies Act (for short 'the Act') for issuance of a certificate for recovery of amount due from him on 19.10.1995. The third respondent issued notice on 21.10.1995 to the first respondent in this regard. The matter under went several adjournments and though the first respondent received notice, he did not choose to raise any objections. Therefore, certificate under Section 71 of the Act was issued for recovery of Rs.89,510-50 ps. Aggrieved by the same, the first respondent filed an appeal before the Tribunal in O.A.No.253 of 1998. The Tribunal, after an elaborate consideration of the matter, partly allowed the appeal directing the petitioner herein to refund an amount of Rs.8,000/- within 30 days from the date of the order. That is the amount found to be paid in excess than the liability of the first respondent herein. Aggrieved by the same, the present writ petition is filed.

3. There is no necessity of going into all the details. Neither before the Arbitrator nor before the second

respondent the petitioner has placed any relevant record for its scrutiny for deciding liability of the first respondent. On the other hand, it was categorically mentioned in the order passed by the Tribunal that in spite of several adjournments the original loan account and record of the first respondent was not produced before the Tribunal, therefore, the Tribunal rightly came to the conclusion on the basis of record available before it that the writ petitioner is liable to refund an amount of Rs.8,000/- after giving adjustment to all the amounts paid by the first respondent.

4. However, the learned counsel for the petitioner states that during pendency of the writ petition in view of one time settlement scheme evolved in the society, the first respondent came forward and paid 25 per cent of the amount i.e., Rs.15,000/- and one time settlement is pending. The remaining one time settlement is yet to be ordered. These matters have no relevance to the facts of the case. If there is any such scheme offered by the petitioner's society, then the respondent wants to avail the same, it is for him to do so. In so far as the order of the Tribunal, it does not alter the situation and the impugned order is liable to be confirmed.

5. Accordingly, the writ petition is dismissed. No costs.

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C.V.RAMULU, J.

Date: 18th September 2006.
BSB